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General Assembly

Sixty-fourth session

Official Records

16th plenary meeting
Thursday, 8 October 2009, 10 a.m.
New York

President: Mr. Ali Abdussalam Treki ..... (Libyan Arab Jamahiriya)

The meeting was called to order at 10.10 a.m.

Agenda item 136

Scale of assessments for the apportionment of the expenses of the United Nations

Report of the Fifth Committee (A/64/482)

The President (*spoke in Arabic*): If there is no proposal under rule 66 of the rules of procedure, may I take it that the Assembly decides not to discuss the report of the Fifth Committee that is before it?

It was so decided.

The President (*spoke in Arabic*): Statements will therefore be limited to explanations of vote. The positions of delegations regarding the recommendation of the Fifth Committee have been made clear in the Committee and are reflected in the relevant official records.

I remind members that under paragraph 7 of decision 34/401 the General Assembly agreed that when the same draft resolution is considered in a Main Committee and in plenary meeting a delegation should, as far as possible, explain its vote only once, either in the Committee or in the plenary meeting, unless that delegation's vote in plenary meeting is different from its vote in the Committee. I remind delegations that, also in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes.

Before we begin to take action on the recommendation contained in the report, I advise representatives that we shall proceed to take a decision in the same manner as in the Fifth Committee.

The Assembly will now take a decision on the draft resolution recommended by the Fifth Committee in paragraph 6 of its report. The Fifth Committee adopted the draft resolution, entitled "Scale of assessments for the apportionment of the expenses of the United Nations: requests under Article 19 of the Charter", without a vote.

May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 64/2).

The President (*spoke in Arabic*): The Assembly has thus concluded this stage of its consideration of agenda item 136.

Agenda items 73 and 74

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General (A/64/206)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506. Corrections will be issued after the end of the session in a consolidated corrigendum.

09-54853 (E)

Please recycle

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General (A/64/205)

The President (*spoke in Arabic*): May I take it that it is the wish of the Assembly to take note of the fourteenth annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The President (*spoke in Arabic*): May I take it that it is the wish of the Assembly to take note of the sixteenth annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The President (*spoke in Arabic*): I call on Mr. Dennis Byron, President of the International Tribunal for Rwanda.

Mr. Byron: I am greatly honoured to address the members of the General Assembly today.

I extend my sincere congratulations to you, Sir, on your election as President, and wish you a successful tour of duty.

The year 2009 marks a sad anniversary. Fifteen years ago, between April and July 1994, genocide was committed in Rwanda; 800,000 or more people were killed, and still more were mutilated, raped and tortured. Fifteen years later, efforts on all levels continue, in Rwanda and elsewhere, to cope with this past and to prevent similar atrocities from happening again anywhere in the world. Courts and tribunals, on the national and international levels, make up just one of many tools that are required in these efforts, but they are essential for the aim of bringing justice to the victims.

This year also marks the fifteenth anniversary of the International Criminal Tribunal for Rwanda, which was established by Security Council resolution 955 (1994). The resolution gave the Tribunal, an organ of justice, a unique mandate, which included not only conducting trials, but also assisting with the restoration and maintenance of peace and contributing "to the process of national reconciliation" (*Security Council resolution 955 (1994), seventh preambular paragraph*) — an ambitious political goal.

Looking back to where international criminal justice was 15 years ago, I do not think I exaggerate if I call the achievements of the Tribunal a milestone — both for international law and for the international striving for justice in the broader sense.

The fourteenth annual report, covering the Tribunal's activities from 1 July 2008 to 30 June 2009, which I have the honour to present today, gives evidence of the intense work continuing at the Tribunal. Every effort is being put into completing the first instance to the maximum extent possible in 2010 without compromising on strict standards of fair trial rights for the accused.

Currently, seven trials involving 10 accused are in the evidence phase. Four of them will be completed this year. Two more trials will commence shortly. This intense trial activity involved the rendering of over 800 written and oral decisions and orders.

In parallel, the Trial Chambers focus on the delivery of judgements. Since 1 July 2008, they have rendered final judgements in eight cases involving 11 accused. By the end of this year, four more judgements will be delivered.

In 2010, we expect the judgements in nearly all currently pending first-instance trials — that is, in 14 trials against 24 accused. Possible spillovers concern mainly the *Karemera et al.* trial, which has been delayed by the adverse health condition of one accused.

While the Tribunal is putting every effort into handling efficiently this enormous workload, three judges, from Fiji, Argentina and the Czech Republic, left the Tribunal at the end of last year. Three new ad litem judges, from the United Republic of Tanzania, Madagascar and Turkey, as well as a new permanent judge from the Russian Federation, have since joined us and have been assigned to a number of cases. Their mandates have been extended until the end of 2010.

All judges work on several cases simultaneously. Many hear the evidence in one case while working on judgements in other cases. The judges have taken on this challenging task with full commitment, and benefit from the essential support of very dedicated legal and administrative staff. For the Tribunal and its

completion strategy, it is essential to ensure that all judges complete their current assignments.

The 11 ad litem judges and the seven permanent judges at trial level handle a comparable workload and responsibility. The remaining differences in their terms and conditions of service, in particular concerning their entitlement to a pension after many years of service, are therefore a serious source of concern. I sincerely hope that the Assembly will address this matter in a resolution as soon as possible.

The Chambers of the Tribunals continue their efforts to improve the judicial management of trials, but are always mindful that the ultimate limits to all management efforts have to be, and indeed are, the fair trial rights of the accused.

From 1 July 2008 to date, the Appeals Chamber of the Tribunal, which is shared with the Tribunal for the Former Yugoslavia, has delivered two judgements and more than 30 interlocutory and other decisions, including three which confirmed the denial of requests for the referral of cases to national jurisdictions. Currently, eight appeals from judgement are pending, with further appeals expected in most, if not all, cases currently at first instance. In order to enable the Appeals Chamber to handle this high workload, Security Council resolution 1878 (2009), of last July, is therefore of critical importance. It authorized an enlargement of the Appeals Chamber over the coming years by up to eight additional judges.

The high intensity of activity at both trial and appeals level also involved a particularly high workload for Prosecutor Hassan Jallow and Registrar Adama Dieng and their respective offices.

The Office of the Prosecutor focuses on securing the arrest of the remaining fugitives. As of today, 11 fugitives remain at large. I am pleased to report the successful arrest and transfer of two accused from the Democratic Republic of the Congo and Uganda to Arusha in recent weeks. Grégoire Ndahimana made his initial appearance before a judge of the Tribunal last week, pleading not guilty on all charges against him. Idelphonse Nizeyimana, who was arrested last Monday, will make his initial appearance next week. He is one of the four fugitives who are considered high-rank responsible in the genocide and who are to be brought to trial before the Tribunal. For the other eight, Prosecutor Jallow and Registrar Dieng continue working with national authorities in order to ensure that the conditions for a referral of their cases to national jurisdictions are met.

As the Assembly may recall, two cases were transferred from the Tribunal to France in 2007, while previous requests for referral to Rwanda were denied by the Trial and Appeals Chambers because of fair trial concerns. The emphasis of the Tribunal, supported by many Member States, is now on technical support to enable renewed requests for referral to the country where the horrendous crimes alleged were committed.

The Office of the Prosecutor also responds to an increasing number of requests for cooperation from national authorities that are themselves investigating cases of genocide and crimes against humanity, and wish to obtain, in particular, access to the comprehensive archives of his Office.

The Office of the Registrar coordinates all matters of judicial and other cooperation between the Tribunal and Member States. As the Assembly knows, the Tribunal depends on State support and cooperation, and not only financially. I should only mention that indictees have been arrested and transferred to the Tribunal from 26 countries, in Africa, Europe and North America. Seven countries have concluded agreements with the Tribunal allowing those convicted to serve sentences in their prisons.

In the reporting period, I have rendered decisions for the transfer of 18 convicts to Mali and Benin for the enforcement of their sentence. Two acquitted persons remain for the time being in Arusha while the Registrar continues his efforts to find a country of relocation. I call once more for the support of all Member States to find, as in previous cases, sustainable solutions in this matter.

In the pre-closure phase, the downsizing process has begun. At the end of September, the contracts of over 50 staff members were not extended in sections where services were no longer considered essential. At the same time, it is critical to ensure an adequate level of competent and experienced staff for the core activities of the Tribunal — the conduct of trials and the preparation of judgements. We are confronted with a high departure rate in the face of the forthcoming closure. The importance of the December 2008 Assembly resolution 63/256, which encouraged the extension of contracts "in accordance with the relevant prevailing trial schedules, in order to remove uncertainty with regard to future employment"

(*resolution 63/256, para. 5*), can therefore not be overestimated. It has been a key political guideline for providing staff with contract security and facilitating staff retention.

While we work on meeting the targets of our completion strategy, we also prepare the closure of our Tribunal. Closing down an international court means navigating in uncharted waters. We have been working intensively with United Nations Headquarters — in particular, the Office of Legal Affairs — and the Member States in the Security Council, in discussing and assisting the drafting of the report of the Secretary-General to the Security Council on the residual mechanism that will take over remaining and continuous tasks after the Tribunal has closed down. Such tasks could include trials if remaining fugitives are arrested, but also the supervision of witness protection orders, the enforcement of sentences and, very importantly, the management of the Tribunal's vast archives.

But, beyond the structure that will follow the Tribunal in its concrete tasks, we will have to look and think further past the legal achievements. What legacy will the Tribunal leave to the victims, to the Great Lakes region and to the international community?

The answer must be a continuous and comprehensive fight against impunity for those who committed genocide, war crimes and crimes against humanity in Rwanda in 1994. The Tribunal was established by the Security Council to prosecute those most responsible for the genocide. Those at lower levels must be dealt with by national jurisdictions, in Rwanda and third countries where genocide suspects are still residing.

Closure of the Tribunal must not send the wrong signal to the many suspected of the worst crimes still on the run that they can now breathe more easily. Rather, national jurisdictions need to ensure that genocide suspects are not finding sanctuary. The Tribunal stands ready to assist national jurisdictions in their efforts to ensure that impunity does not prevail. Therefore, the Tribunal continues to work on capacity-building, in particular through the opening of information centres, training activities and awareness-raising in Rwanda, but also, for example, through conferences with national prosecuting authorities and other prosecutors of international crimes from all over the world.

I thank the members of the Assembly for their support for the Tribunal over the last one and a half decades. Recently, we submitted our budget request for the next biennium, 2010-2011, and I call upon the international community to continue its support for our efforts to complete our mandate by providing us with the necessary funds. I also ask for support in our efforts to ensure equity in the terms and conditions for all our judges.

I say to the members of the Assembly: "Your Governments have been our faithful and trustful supporters, even in difficult times. We will not cease our efforts to deserve your trust and support, because your support and our efforts have the same goal: to ensure that impunity of those who commit genocide, war crimes and crimes against humanity is not acceptable for an international community that is based on the rule of law."

The ad hoc Tribunals for Rwanda and the former Yugoslavia were the starting point of an amazing development of international criminal justice in the last 15 years, followed by the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, the Special Tribunal for Lebanon and the permanent International Criminal Court. At the same time, more and more countries have changed or enacted national legislation so as to allow dedicated prosecutors and judges in their own jurisdictions to bring to justice the perpetrators of horrendous crimes, even if they are former prime ministers, military or religious leaders or wealthy businessmen.

Let us continue working together, nationally and internationally, to make the ambitious goal of ending impunity for genocide, war crimes and crimes against humanity more and more of a reality every year.

The President (*spoke in Arabic*): On behalf of the General Assembly, I thank the President of the International Criminal Tribunal for Rwanda.

I now call on Mr. Patrick Robinson, President of the International Tribunal for the Former Yugoslavia.

Mr. Robinson: At the outset, Mr. President, I take the opportunity to congratulate you on your election to the high office you now hold in the Assembly and to wish you every success.

It is an honour to appear before the General Assembly today in my capacity as President of the United Nations International Criminal Tribunal for the

Former Yugoslavia and to present to the Assembly the Tribunal's sixteenth annual report.

I am proud to speak on behalf of an institution that has had an unprecedented impact upon the development of international humanitarian law, international criminal law and international criminal procedure. During the nearly 16 years of its operation, the Tribunal has shown that international justice works, and it has led the way in putting an end to the culture of impunity. The Tribunal's achievements would not have been possible without the support of the members of the Assembly, and I take this opportunity to convey my gratitude to them for the support they have given to the Tribunal, support that remains essential to the completion of our work.

The Tribunal's commitment to its completion strategy remains steadfast, and all our efforts are aimed at finishing the Tribunal's work as quickly as possible in accordance with our mandate.

During the reporting period, three appeal judgements were rendered, bringing to 86 the number of appeal cases fully completed. Additionally, three trial judgements were rendered, bringing to 50 the number of trials that have been heard. At our peak, we ran eight trials simultaneously in three courtrooms, taking advantage of gaps in trial schedules.

In that regard, I wish to give a special commendation to the indefatigable efforts of the newly appointed Registrar and the staff of the Registry for the very competent support they provide to the Chambers of the Tribunal and to the Office of the Prosecutor. Without translation and interpretation, both in and out of court, without the support for victims and witnesses, without the technical assistance and the endless number of other services that are quietly and consistently delivered by the Registry, the Tribunal would immediately cease to function.

Currently, only two cases remain at the pretrial stage, and they will commence this year. Our current estimates are that all but four of our trials will conclude in 2010, with three finishing in early 2011, and the final trial, that of Radovan Karadžić, ending in early 2012. Unfortunately, there are two fugitives still at large: Ratko Mladić and Goran Hadžić. Failure to bring them to justice will leave a stain on the historic contribution of the United Nations to peacebuilding in the former Yugoslavia. I therefore urge Member States to do all within their power to ensure the apprehension of those fugitives as a matter of urgency.

During my presidency, I have taken measures to ensure the orderly completion of our work. A comprehensive assessment of all present and anticipated appellate work has been carried out, and mid-2013 has been identified as the completion date of our proceedings. It is important to bear in mind that the downsizing of the Tribunal, which commences in 2010, will result in a reduction of staff by 40 per cent by the end of 2011.

At the same time, the Tribunal is continually looking for new and creative ways to increase the productivity of our work. While it is impossible to foresee all causes of delay in a judicial environment, responsible management dictates that potential obstacles be identified, controlled, and ultimately dispelled.

One specific factor of critical concern to the Tribunal is the retention of its highly qualified staff. This I wish to stress because it is a factor that is not entirely within the Tribunal's control. The importance of retaining the staff necessary for completing the Tribunal's work, while downsizing those whose tasks have been discharged, places the Tribunal in an extraordinarily difficult position.

Upholding the morale of an institution during the final stages of its lifespan is a great challenge. Many staff members will be tempted to seek more permanent employment elsewhere, long before their posts in the Tribunal are abolished. This is a great risk to the productivity of our work. In fact, many have already left, and currently we are losing staff at a rate of one a day. If that rate of attrition continued, by the end of the year we would have lost 30 per cent of our staff.

In that regard, I am extremely grateful to the General Assembly for its adoption last year of resolution 63/256, which recognizes the difficulty and allows the Tribunal to offer contracts to staff, in line with the dates of planned post reductions and in accordance with trial schedules. However, while that measure is beneficial, it is not enough. Highly qualified and professional staff, essential for the completion of the Tribunal's work, continue to depart at alarming rates. When a staff member who has served at the Tribunal for a number of years decides to leave, the problem that arises involves more than just filling a

vacant post, a process that, incidentally, consumes precious Tribunal resources in and of itself.

Our jurisdiction is a very specialized one, requiring a high level of expertise and hands-on experience, so that even a very knowledgeable and experienced professional person needs time to obtain the skills required to successfully function at the Tribunal. The flow of essential staff away from the Tribunal needs to be stemmed now. Failure to take swift action in this regard will extend the time needed for the completion of the Tribunal's mandate, because of its impact on the efficiency of our work.

The Tribunal has long been active in bringing this matter to the attention of Member States, but, other than in resolution 63/256, to which I referred earlier, no further supportive action has been taken. I am aware that significant changes to the contractual regime in the United Nations are on the Assembly's fall agenda, changes that could be of great assistance to our efforts to retain staff. In particular, the continuing appointments will offer some of the stability that we sorely need. The end-of-service grant is another initiative that could help us to slow our attrition rate and ensure that we can complete our mandate as expeditiously as possible. I also urge the Assembly to assist the Tribunal in devising other measures to retain its highly qualified staff.

Another matter that I wish to bring to the Assembly's attention is the work the Tribunal is carrying out to ensure that it fulfils its mandate of contributing to the maintenance of peace and security in the former Yugoslavia and to ensure that local jurisdictions have the capacity to continue with the prosecution of war crimes cases in accordance with Security Council resolutions 1503 (2003) and 1534 (2004).

While working full speed on its trials and appeals, the Tribunal has enlisted the expertise of other international organizations and engaged in a series of capacity-building initiatives. I am happy to report that the projects brought to the Assembly's attention last year by my predecessor have now been concluded, resulting in the publication of a manual that describes the practices of the Tribunal in unprecedented detail, as well as giving a comprehensive assessment of capacity-building efforts in domestic jurisdictions throughout the former Yugoslavia.

On the basis of that assessment, the Tribunal is deepening its cooperation with the United Nations Interregional Crime and Justice Research Institute and the Organization for Security and Cooperation in Europe Office for Democratic Institutions. And, together with them, we are preparing an ambitious project to guarantee that the national justice systems in the region have the capacity to deal with their growing war crimes caseload, as the Tribunal heads towards the completion of its core activities. Generous funding from the European Commission is expected for this timely undertaking.

The Prosecutor's Office has also been active in its capacity building efforts, forging strong partnerships with its counterparts in the region. To this end, the Prosecutor — again, with funding from the European Commission — has established a visiting professionals programme, under which prosecutors from the region work with the Office of the Prosecutor on cases at the Tribunal in The Hague.

There is another matter that I feel obliged to bring to the Assembly's attention, one that I strongly believe must be addressed if there is to be lasting peace and reconciliation in the region. I refer to compensation to victims for the atrocities they suffered during the conflicts in the former Yugoslavia. As President of the Tribunal, I have met on numerous occasions with victims' groups, which have expressed their anguish at the failure of the international community to provide any kind of compensation for their suffering.

In many respects, the victims feel that they have been forgotten by the international community and that their rights have been disregarded. With respect to their right to compensation, I must agree that the international community has forgotten them. Currently, there is no effective mechanism by which victims can seek compensation for their injuries, despite the fact that their right to such compensation is firmly rooted in international law.

I need only refer to the Assembly's 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (resolution 40/34, annex), but reference can also be made to the "Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law", referred to by the Commission on Human Rights in its resolution

2000/41, adopted in April 2000. The Statute of the International Criminal Court provision addressing victim compensation contrasts sharply with the absence of comparable provisions in our Statute.

Those instruments were established by the international community because justice is not only about punishing perpetrators, but also about restoring dignity to victims by ensuring that they have concrete means to rebuild their lives. The Declaration itself identifies sources of compensation, including the offender, or national funds, but in circumstances where the State is unable to compensate the victim it proposes that other funds be established for the purpose.

Former Tribunal President Jorda brought the matter to the attention of the Security Council in November 2000, in a letter suggesting that

> "the President of the Security Council recommend to the Council and to the Secretary-General that methods of compensating victims of crimes in the former Yugoslavia, notably a claims commission, be considered by the appropriate organs of the General Assembly". (*S/2000/1063, appendix, para. 48*)

But, sadly, to date nothing has been done, and I fear that failure by the international community to address the needs of victims of the conflicts that occurred in the former Yugoslavia will undermine the Tribunal's efforts to contribute to long-term peace and stability in the region. That is why I implore the Assembly to support the establishment of a claims commission as a method of complementing the Tribunal's work by compensating victims of crimes in the former Yugoslavia.

In closing, I would like to reflect once again upon the tremendous achievements of the Tribunal. Its establishment in 1993 ushered in a new era in international affairs and led to the establishment of other international criminal justice institutions. In that regard, the impact of the Tribunal on the development of international justice has been profound. I urge the General Assembly to ensure that this work is not unnecessarily tarnished by the continuing flight from justice of the remaining two fugitives.

I would also like to re-emphasize that the Tribunal is doing all it can to complete its work expeditiously and fairly, while upholding the highest standards of a United Nations international court. But if the Tribunal is to meet its current target dates it needs the help of Member States in ensuring that the orderly completion of its work is not hampered by the departure of its highly qualified and still very necessary staff.

Together we strive towards the same objective: fighting impunity and bringing justice to victims of gross violations of international law. As the Tribunal completes its mandate, the torch will be passed to the judges, prosecutors and defence counsel in the former Yugoslavia to continue this ambitious endeavour.

Mr. Ban Ki-moon, in his remarks on 17 July 2008 at the commemoration here at United Nations Headquarters of the tenth anniversary of the adoption of the Rome Statute of the International Criminal Court, stated that the

> "fight against impunity started in earnest with the establishment of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. These courts pioneered the emergence of international criminal justice, and the enforcement of international humanitarian law".

It is our hope that the entrenchment of justice and the rule of law will lead to lasting peace and prosperity in the former Yugoslavia, a peace and prosperity so justly deserved.

The President (*spoke in Arabic*): On behalf of the Assembly, I thank the President of the International Tribunal for the Former Yugoslavia.

Mr. Lidén (*Sweden*): I have the honour to speak on behalf of the European Union. Croatia, the former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, the Republic of Moldova, Armenia and Georgia align themselves with this statement.

This year, once again, the European Union reaffirms its unwavering support for the work of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). As Judge Patrick L. Robinson, President of the International Criminal Tribunal for the Former Yugoslavia and Judge Charles Michael Dennis Byron, President of the International Criminal Tribunal for Rwanda, have just shown in their presentations, the Tribunals are making invaluable contributions to our shared goal of ending impunity for serious international crimes. The European Union thanks them

both for their excellent reports, and commends them for their efforts to successfully complete the work of the Tribunals. The European Union also pays special tribute to the relentless work of all the staff of the Tribunals.

Since their establishment the Tribunals have served as an inspiration to the international community by refusing to let perpetrators of heinous crimes escape justice. This sends a clear signal that war crimes, genocide or crimes against humanity will not go unpunished, and fosters a culture of accountability.

The Tribunals have played key roles in strengthening the rule of law and promoting long-term stability and reconciliation, and not only in the Balkans and Rwanda. Their work has had far wider effects than that. The Tribunals have been forerunners and ground-breakers in their development of case law and jurisprudence, making invaluable contributions to international humanitarian law and international criminal law. Their contributions span from making essential definitions regarding the reach of international humanitarian law to the important finding that rape and sexual violence with the intent to destroy a protected group as such can constitute genocide.

The work of the two Tribunals has shown that international criminal law is an enforceable body of law. This contributed to and accelerated the elaboration and adoption of the Rome Statute of the International Criminal Court (ICC) in 1998, to which the European Union reaffirms its strong commitment. Neither the Tribunals nor the ICC were ever intended to replace national courts. This principle has guided them and the international community also to engage actively in the strengthening of national judicial systems.

In recognition of strengthened domestic capacity, the Security Council in its resolutions 1503 (2003) and 1534 (2004) called on the ICTY and ICTR to transfer all lower and mid-level accused back to competent national jurisdictions in the region for trial by domestic courts. The ongoing strengthening of the Rwandan legal system and its ability to adjudicate cases from the ICTR will, hopefully, permit the ICTR to transfer such defendants to the Rwandan courts and thus allow the Tribunal to fulfil its completion strategy. These strengthening efforts have been fully supported by the European Union. We note with appreciation the efforts made by Rwanda to meet the demands regarding the right to a fair trial.

Despite continuing appeals by the international community, 13 accused remain at large, 2 indicted by the ICTY and 11 indicted by the ICTR. The failure to arrest these accused remains a grave concern to the European Union. Among those still at large are key indictees allegedly responsible for the most serious atrocities, such as Ratko Mladić and Félicien Kabuga.

The EU commends the cooperation of the Ugandan authorities and INTERPOL which led to the very recent arrest and transfer to the ICTR of one of the top accused who is facing multiple charges of genocide and crimes against humanity. While there are many commendable instances of cooperation, the European Union continues to urge all States to cooperate immediately and unconditionally with both Tribunals in full adherence with their obligations under the relevant Security Council resolutions regarding the arrest and surrender of remaining fugitives, and the transfer of any documents requested by the Prosecutor.

The European Union remains committed to ensuring that all indictees face justice. In this regard, the EU recalls that cooperation with the ICTY is essential in relation to the EU stabilization and association process.

The EU encourages States to conclude agreements on the enforcement of sentences and on the relocation of witnesses, indispensable for the effective implementation of the Tribunals' work.

The Tribunals are approaching the end of their work. They were not intended to be permanent, and will cease to exist when the Security Council deems that the work for which they were set up has been accomplished. We look forward to that moment, as it will mark the end of the Tribunals' mission and confirm their undisputed success.

The European Union takes note of the estimated delay in meeting the original completion strategy deadlines due to a number of factors, including the late capture and transfer of fugitive indictees. The EU urges the Tribunals to continue to identify further measures to complete their work as efficiently and promptly as possible. We acknowledge the importance of the Tribunals' being granted appropriate resources to enable them to complete the proceedings as soon as possible without compromising due process.

The European Union is committed to preserving the legacy of the Tribunals after their closure. As

already stated, their contribution has not been limited to the development of case law. Their practice and experience on how to prosecute and prevent crimes against humanity, genocide and war crimes have been equally extensive, and should be transferred to international and national jurisdictions.

The European Union therefore warmly welcomes the publication by the ICTY, assisted by the United Nations Interregional Crime and Justice Research Institute, of a manual of its developed practices for use by other domestic and international courts. We also welcome the report produced collaboratively by the ICTY, the Organization for Security and Cooperation in Europe and the United Nations on the capacity-building needs of the local judiciaries dealing with war crimes proceedings in the region concerned.

The EU further welcomes the work on residual issues by the Security Council's Informal Working Group on International Tribunals, including identifying which functions need to continue after the two Tribunals have completed their work. We highly value the open and transparent discussions under Austrian chairmanship on those issues. The EU fully supports the establishment of mechanisms to deal with residual functions. We stand ready to work with the Council to find the most appropriate, cost-effective solutions to the residual and legacy issues.

Mr. Morrill (Canada) (*spoke in French*): I have the honour to speak on behalf of Canada, Australia and New Zealand -- the CANZ delegations.

First, Canada, Australia and New Zealand pay tribute to the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), whose pioneering work has made a significant contribution towards ensuring accountability by those responsible for the most serious international crimes: genocide, crimes against humanity, and war crimes.

By bringing to justice the perpetrators of such crimes, the Tribunals have helped to strengthen the rule of law and to promote long-term stability and reconciliation in the Balkans and in Rwanda. Their work shows that peace and justice can go hand in hand. The jurisprudence of both Tribunals also forms a significant part of their legacy, one which will be drawn upon for many years to come.

CANZ welcomes the capture of Idelphonse Nizeyimana and his transfer to the ICTR, and commends the remarkable cooperation of the Government of Uganda in that endeavour. In order for the Tribunals to complete their work it is imperative that all the remaining indictees be surrendered, particularly Ratko Mladić, Goran Hadžić and Félicien Kabuga. States that continue to help these fugitives escape international justice undermine not only our common fight against impunity, but their own commitment to the rule of law.

(*spoke in English*)

CANZ appreciates the efforts being made by both Tribunals towards achieving the goals outlined in their respective completion strategies. We note as well the recent Security Council resolutions extending the terms of office of the judges of the ICTY and the ICTR. CANZ continues to urge both Tribunals to identify measures that will enable them to complete their work as efficiently and promptly as possible, including the transfer of cases to national courts where appropriate. We hope that the further steps that Rwanda has taken over the last year to strengthen its judicial system will see the first cases referred to Rwanda in the near future.

With both Tribunals working towards the end of their mandates, a vital aspect of concluding the Tribunals' work is how to address the associated residual issues of completion, including enforcement of sentences, the continuing protection of witnesses, detention issues, future applications by convicted persons, and the preservation and protection of archives.

CANZ welcomes the important steps that have been taken already by both the ICTR and the ICTY to deal with residual issues. In fact, residual issues flowing out of the ending of the work of the ICTR/ICTY are the subject of an informal meeting convened by Austria as the Chair of the Security Council's Informal Working Group on International Tribunals that is taking place on this very day.

While every situation is different, CANZ believes that lessons learned and solutions found in the ICTR/ICTY context may also be applicable to other tribunals, such as the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia and the Special Tribunal for Lebanon. Equally, the work being done in other tribunals on residual issues can help to inform the discussions relating to the ICTR/ICTY. We note past and current efforts of

exchange between the tribunals. We also encourage further discussion within the international community to ensure that the lessons learned and the mechanisms developed in one tribunal are examined for potential application to others. We are also pleased to note that Canada will support a workshop on residual issues to be held here in New York early next year.

The ICTY and the ICTR continue to contribute significantly to the fight against impunity. The successful completion of their work relies on the cooperation and support of all States. We call upon States to give practical effect to their commitment to an effective system of international criminal justice. For our part, Canada, Australia, and New Zealand will continue to offer the Tribunals our full support and cooperation in this vital dosing stage of their existence.

Mr. Starčević (Serbia): Having heard the presentation of the annual report of the International Criminal Tribunal for the Former Yugoslavia (ICTY), by its President, Judge Patrick Robinson, I would like to express my satisfaction with the comprehensive approach taken in the report, as well as with the appraisal given to the efforts of my Government. In this connection, I once again pledge Serbia's full commitment to fulfilling its international obligations with regard to cooperation with the ICTY. A successful conclusion of cooperation with the ICTY remains one of the utmost priorities of the Government of Serbia. In that respect, we attach importance to the visit of Judge Robinson to Belgrade last July, the first such visit of a President of the ICTY to Serbia. The visit provided additional impetus and encouragement to the efforts that my country is making.

The level of cooperation with the ICTY, especially as regards access to archives and provision of documents to the Tribunal, witness protection and the provision of waivers for testifying in the proceedings, provides ample proof of the commitment of the Government of Serbia and its relevant authorities to full cooperation with the ICTY.

We also note with appreciation the assessment that the professionalism and efficiency of our services involved in the search for fugitives has generally improved. Cooperation with, and monitoring by, the Office of the Prosecutor, as well as other relevant international factors, give further testimony that every effort is being made in tracking down the last two remaining fugitives, apprehending them and bringing them to justice. The capture of Ratko Mladić and Goran Hadžić, for my country, remains not only an international obligation, but also an indication of our acceptance of international standards with respect to individual responsibility for war crimes and other violations of international humanitarian law.

Let me express our firm conviction that the fight against impunity is in the common interest of all the peoples of the former Yugoslavia. Having witnessed a trend of increased regional cooperation in the processing of persons indicted for war crimes, we are convinced that further strengthening of national judicial capacities contributes in the best way to the realization of universal principles of justice and fairness.

In that sense, it is important to acknowledge that, 15 years following the conflict, new realities have emerged in our region, especially improved relations and cooperation between States, as well as restored administrative capacities. We therefore believe that what is needed is that the competent organs of the United Nations reconsider and revise their position on the serving of prison sentences by convicted persons in their home countries. We hope that the ICTY will lend its support to the aspirations and intentions of the countries of the region in this regard.

Speaking about cooperation within our region, I would also like to remind the General Assembly of one negative example. Media in Serbia and neighbouring countries have widely reported that documents, including United Nations Interim Administration Mission in Kosovo documents, pertaining to the existence of clandestine clinics where abducted Serbs from Kosovo were taken to suffer the worst fate of being subjected to the forced harvesting of organs till death, the practice highlighted in the book of former ICTY prosecutor Carla Del Ponte, were destroyed. The legal bodies of Serbia issued an appeal for assistance, including by the ICTY, in the conduct of its investigation of this grave matter.

Serbia's unequivocal support for the Tribunal was demonstrated by the adoption of an official position by the Government of the Republic of Serbia on 13 March 2009 in relation to the residual mechanism and completion strategy of the ICTY. That position has been duly circulated to the members of the Security Council. We also remain committed to our position on the issue of ICTY archives, circulated in November

2008, and stand ready to support all initiatives that could expedite the remaining work of the Tribunal.

Mr. Wetland (Norway): I start by expressing Norway's continuing support for, and full recognition of, the achievements and high standards of the International Criminal Tribunals for Rwanda and the Former Yugoslavia, as reflected in the Tribunals' well-reasoned judgements and the annual reports before us. We thank the Presidents of the two Tribunals, Judges Byron and Robinson, for their detailed and informative reports, which describe the progress made during the last year.

The Tribunals' work has been crucial in advancing justice and the rule of law in Rwanda and the former Yugoslavia. The Tribunals will leave a legacy of international jurisprudence that can guide courts and deter the future commission of grave crimes, as well as prevent impunity.

As the completion dates for the Tribunals draw nearer, I would like to focus on three specific issues, all of which are significant for the successful completion of the Tribunals' work: continued efforts by the Tribunals to implement their completion strategies; the cooperation of Member States; and the agreement in the Security Council concerning residual issues.

Both Tribunals are continuing the hard work to complete their mandates. The Yugoslavia Tribunal has concluded proceedings against 120 of the 161 indicted persons. The Rwanda Tribunal has delivered judgements for 45 of the accused at the first instance, and for 27 of the accused at the appellate level. We commend both Tribunals for their commitment to meeting the completion strategies, while ensuring that due process standards and fundamental legal principles are fully respected. We urge the Tribunals to continue their efforts in this regard.

The Tribunals cannot successfully complete their mandates without the full cooperation of States. It is crucial at this point that States give both Tribunals their unreserved support. All States must honour their obligations with regard to requests for full and effective assistance to the Tribunals. This applies with regard to witnesses, financial and material support and practical assistance in the enforcement of sentences. Moreover, the important responsibility for enforcing sentences must be shared by more States. We welcome the conclusion of new agreements by the Yugoslavia Tribunal, and look forward to additional agreements being concluded.

The failure to arrest remaining fugitives continues to be of concern to us. It is not acceptable that perpetrators of serious international crimes are evading legal proceedings. We therefore welcome the arrest this week of Idelphonse Nizeyimana, one of the remaining accused by the Rwanda Tribunal, and his prompt transfer to Arusha from Uganda. This is an important step forward. We urge the continued cooperation and support of all Member States in order to fulfil their obligation to arrest and transfer fugitives to the Tribunals without delay.

Lastly, I draw the Assembly's attention to the issue pending in the Security Council, namely, how the residual issues should be dealt with after completion of the Tribunals. We have read with interest the report of the Secretary-General (S/2009/258), dated 21 May 2009. While we are fully aware of the ongoing deliberations in the Council's Informal Working Group on International Tribunals, we urge the Council to conclude its work on these important issues as soon as possible. This will help to ensure a proper transition from two Tribunals to one or possibly two mechanisms that can perform the necessary tasks after the closure of the Tribunals.

One of the key outstanding issues concerns the location of such a mechanism or mechanisms. Norway would support an approach which also fully incorporated the needs of other United Nations-assisted courts.

One should take full advantage of possible synergies. As we all know, the International Criminal Court is expected to move into its permanent premises in 2014. According to the report of the Secretary-General, the current relocation plans for the Court could still be adapted to accommodate the needs of a residual mechanism. Without prejudice to the outcome of the discussions in the Security Council, I suggest that that is one of many issues that indicate the need for expeditious action by the Council.

Mr. Vilović (Croatia): I begin by welcoming President Robinson and President Byron and thanking them for presenting the Tribunals' respective reports.

Croatia continues to support the Tribunals' efforts to ensure early and orderly completion of their work. We recognize that they have entered a critical period in

which it will be necessary to begin to downsize while continuing to work on remaining cases and transitioning towards an appropriate infrastructure that will take up their residual issues in the future.

Allow me to make a few remarks regarding the activities of the International Criminal Tribunal for the Former Yugoslavia (ICTY) over the past year, given the importance that my country attaches to its work.

For Croatia it remains imperative that the transition towards the Tribunal's closure leave no impunity gaps. Notwithstanding the impressive trial figures quoted in the report by President Robinson, the mandate of the ICTY cannot be declared completed without bringing to justice two remaining fugitives — Ratko Mladić and Goran Hadžić — who bear responsibility for some of the gravest crimes committed in Bosnia and Herzegovina and in Croatia: the massacres in Srebrenica and Vukovar. The arrest and trial of high-level fugitives must be a priority, not just for the Tribunals, but for the international community. We therefore welcome the recent arrest of high-level fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR), and hope to see an early beginning of their respective trials.

More than a year ago another high-profile fugitive, Radovan Karadžić, was arrested. We regret to note that his case is still in the pretrial phase, despite the fact that more than a dozen years have passed since his indictment.

We take note of the anticipated dates for the closure of the Tribunals, which will slip well into the next decade. While we share concerns expressed about lengthy trials, we also recognize the need to be realistic. The early closure of the two Tribunals is a legitimate objective, but not at the expense of the fair trial guarantees.

Croatia welcomes steps that the Tribunals are taking towards redeploying resources and personnel in order to better respond to new circumstances after 2010, when an influx of appeals is expected. We are also aware of the problem of the attrition of personnel, as highlighted by Presidents Byron and Robinson. In order to bring their mandate to an orderly closure, the Tribunals have to have sufficient capacity and resources.

We are cognizant that justice, and in particular international justice, is costly, complex and, sometimes, slow. While the Tribunals' mandates are slowly coming to a close, the trials before national courts will continue. It is the courts of our region that will continue the work started by the ICTY. The Croatian judiciary has clearly demonstrated its ability to conduct trials of even the most sensitive cases, including the one case that was transferred to it by the ICTY.

As the processing of war crimes is likely to continue in the foreseeable future, Croatia has a special interest in finding sustainable, just and practical solutions for discharging the Tribunals' residual functions, notably those related to the future of the Tribunals' archives, liaising with the Prosecutor's Office, and the modalities of serving the sentences.

Croatia will continue to insist on, and fully support, the fulfilment of the mandate of the ICTY, recognizing it as a key force in a process of restoring the victims by providing justice, which in turn paves the way for a better future, a future of peace, security, cooperation and prosperity, for the whole region.

We are glad that the present report has confirmed Croatia's overall good cooperation with the ICTY. Croatia's commitment to full, open and unequivocal cooperation with the Tribunal is unwavering, including in the *Gotovina et al.* case, as demonstrated by the close and intense working relationship developed between the Office of the Prosecutor and the Croatian Government on all levels. In the case that I have just mentioned, the Croatian authorities have continued to take concrete administrative, investigative and judicial measures, in close consultation with the Prosecutor, in order to meet to the maximum extent possible the Office of the Prosecutor's requests regarding missing documents. We believe that recent steps, in conjunction with the earlier measures undertaken as part of an administrative investigation, and the ensuing criminal proceedings, will prove once again that the cooperation with the Office of the Prosecutor is full and open.

The crimes committed in the former Yugoslavia and Rwanda over the past decade continue to haunt our collective conscience. The two Tribunals have already made a profound impact through the process of individualizing guilt for crimes committed and building a body of law as their lasting legacy to the regions affected and to the world, not least as a precursor to the establishment of the International Criminal Court.

The Tribunals' success and their legacy will be judged by their credibility. That is why it is essential that there be no closure without a credible strategy which will ensure that impunity cannot outlast justice. The Tribunals' mandates should not be terminated before putting in place appropriate structures for managing residual issues, including trials of the remaining high-profile fugitives. Croatia will continue to work with others to that end.

Mr. Muita (Kenya): My delegation congratulates you, Sir, on your election to preside over the Assembly's deliberations, and also congratulates the other members of your Bureau. We assure you of our full commitment and support as you discharge the task before you.

I begin by thanking the President of the International Criminal Tribunal for Rwanda (ICTR), Judge Dennis Byron, and the President of the International Criminal Tribunal for the Former Yugoslavia, Judge Patrick Robinson, for their comprehensive annual reports submitted to the Assembly in conformity with the respective Statutes establishing the Tribunals.

Kenya notes the numerous challenges facing both Tribunals, which include unprecedented judicial workloads during their winding-up phase. We are, however, encouraged that, due to exceptional leadership, commendable progress has been made towards achievement of their respective completion strategies. In that regard, my delegation welcomes the measures taken by both Tribunals, including amending their rules of procedure, with a view to expediting the delivery of justice. That is a positive step towards reducing the pending workload.

Enforcement of sentences by the ICTR is a matter of concern. In this respect, my delegation is pleased that some countries have agreed to host persons convicted by the Tribunal for purposes of serving their sentences. Kenya believes this support and assistance helps ease congestion in the Tribunal's detention facilities, and is critical to the proper discharge of its functions. We continue to urge Member States to give enhanced cooperation, and in this connection welcome the positive development noted in paragraph 54 of the report, where we learn that during the reporting period the ICTR continued to receive a number

> "of requests for mutual legal assistance from national jurisdictions conducting investigations, with a view to the prosecution or extradition of Rwandan fugitives appearing on the INTERPOL wanted list".

Kenya will consistently continue to support the international criminal justice system. Through the relevant Government departments and agencies, my country has been working closely with both the ICTR and the International Criminal Court in all areas.

I am happy to inform the Assembly that on 30 September Kenya signed an extradition treaty with Rwanda. That is a positive development as the ICTR draws closer to completion of its mandate, because it will facilitate further cooperation between the two countries during the Tribunal's post-closure period.

My country believes that both Tribunals have contributed immensely to the development of international criminal law. Their jurisprudence provides useful reference material for various stakeholders.

My delegation encourages the efforts to promote dissemination of information on the activities of the Tribunals. The issue of providing safe custody of the records and material emanating from both institutions is a challenge that needs to be resolved. The Government of Kenya is looking very favourably into this question with respect to the ICTR.

The official visits to both Tribunals by high-ranking officials from Governments and other organizations, in our view, reflect the recognition conferred on the Tribunals. We also believe that they play an important role in enhancing the image of both institutions as central organs for international dispute-resolution. We encourage such visits as part of the awareness programmes, and appreciate the measures put in place to educate officials from Member States.

Kenya supports the case put forward by the President of the International Criminal Tribunal for Rwanda on behalf of the ad litem judges, who discharge the same functions as the permanent judges of the Tribunals. We urge the Assembly to resolve the matter.

Finally, my delegation appreciates support for training provided by the EU to both Tribunals. We are convinced the training will promote understanding of international criminal law and the need to prevent future occurrences of the heinous crime of genocide. We urge the EU and other development partners to

consider extending the training programmes to wider regions.

I once again reaffirm my country's commitment to the ideals and principles of the international criminal justice system.

Mr. Gasana (Rwanda): My delegation thanks the President of the International Criminal Tribunal for Rwanda (ICTR) for the presentation of his report to the General Assembly.

The Government of the Republic of Rwanda appreciates the contribution of the international community to justice and reconciliation in Rwanda in the aftermath of the 1994 genocide, and recognizes the contribution the ICTR has rendered to this end. I also take this opportunity to commend the authorities of the Democratic Republic of the Congo, the Government of Uganda and INTERPOL for their concerted efforts in arresting genocide fugitives Grégoire Ndahimana and Idelphonse Nizeyimana, both of whom are now in Arusha, Tanzania, awaiting justice.

My delegation is of the firm view that the best way to give the strongest impetus to justice and reconciliation in Rwanda would be by justice being done, and being seen to be done, where the crimes took place. Rwanda on its part has done everything within its modest means to provide justice to its people, through a combination of traditional and more formal systems of justice. It is for that reason that my Government insists that no residual mechanism of the ICTR should have a trial capacity after 2010.

All cases for which trial has not begun by the end of 2010 must be transferred to the national courts of a State in whose territory the crime was committed or in which the accused was arrested, or to any other State willing and able to accept them. That is the only way for the international community to ensure that the global fight against impunity for the remaining fugitives is carried on while achieving the stated objective of putting an end to the work of the ICTR.

Rwanda has long called for the transfer of accused in the custody of the ICTR for trial before our domestic courts. Public administration of justice in Rwanda is clearly preferable to any form of justice outside Rwanda, either in third-party States on the basis of universal jurisdiction or before an international tribunal. The international community has a singular opportunity to achieve this through adequate joint efforts of the ICTR and the Government of Rwanda to ensure that the requirements for transfer are satisfied.

Recent suggestions by the ICTR that domestic justice in Rwanda is somewhat below standard are unacceptable. The Government of Rwanda has undertaken wide-ranging reforms of legal instruments to accommodate and clarify aspects of the law that were hindering the transfer of cases to Rwanda. Whereas the Tribunal's Office of the Prosecutor has been transferring files of unindicted suspects to the Rwandan Public Prosecution Authority, recent requests by the ICTR Prosecutor to transfer outstanding cases involving lower-rank accused to Rwanda were denied by the Trial Chambers. Those decisions are not encouraging for our future collaboration and cooperation.

We look forward to the ICTR reviewing its rulings that resulted in preventing domestic courts in other countries from extraditing fugitives to Rwanda for trial. From experience, it is noticeable that the usefulness of international prosecutions is limited. The ICTR has prosecuted a handful of cases, and, with the exception of the few cases in Belgium, Switzerland, the Netherlands, Canada and Finland, there is a total lack of interest and enthusiasm in prosecuting Rwandan genocide suspects abroad. Those countries that have the appropriate laws perhaps lack the resources, but mostly lack the political will to do so.

As I have mentioned, Rwanda has over the years modernized its domestic justice system, modelled on international standards, including prison conditions, training of judicial personnel and promoting judicial independence and impartiality. Because the Tribunal was never meant to provide justice for the masses, genocide justice has been essentially a domestic process.

Rwanda is of the view that the ICTR residual mechanism must be entrusted with unfinished or ongoing business that relates back to proceedings already conducted or ongoing at the cut-off date of 31 December 2010, bearing in mind that, for consistency and fairness, no new trials should commence past the first quarter of 2010.

All other matters must be transferred to national systems. Hence, should the defence of an accused transferred within a national system seek access to records in a previous case which are material to its case, and, of course, which are not available to the

public, the residual mechanism would be competent to handle the request.

The same goes for variations of protective measures and so on. It should be borne in mind that just because some cases have been conducted before the ICTR that does not create a requirement that the accused in other cases must have access to ICTR archives for them to have a fair trial. Those that have been tried before our domestic courts did not have such access, nor was it necessary or required.

The Government of Rwanda has also expressed its preference that those convicted by the ICTR should serve their sentences in Rwanda, a call which thus far has gone unheeded, despite our willingness and efforts to meet all the conditions required for Rwanda to accommodate ICTR convicts, in accordance with international standards. Rwanda, with the support of members of the international community, has invested resources in the legal, physical, professional and logistical infrastructures to meet the requirements of international judicial standards.

Rwanda maintains that if the work of the ICTR is to have any significance for Rwandans, at least some of the convicts ought to serve their sentences in the country where the crimes were perpetrated. That could go a long way to demonstrate the importance of international accountability in a manner that most Rwandans can understand and relate to.

In conclusion, on behalf of my Government, I commend the representative of Sweden, who said, speaking on behalf of the EU, "We note with appreciation the efforts made by Rwanda to meet the demands regarding the right to a fair trial."

Mr. Hoxha (Albania): First, I join other delegations in expressing our appreciation for the work of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, and their respective Presidents Judge Patrick L. Robinson and Judge Charles Michael Dennis Byron. We all agree that their work throughout the years has been and remains of vital importance in creating a legacy for the future of international criminal justice and international law as a whole.

My delegation aligned itself with the statement delivered by the representative of Sweden on behalf of the European Union. In addition, in my national capacity, I would like to emphasize the following.

Albania strongly supports all efforts to strengthen international criminal justice. We must ensure that those responsible for serious crimes are held accountable and brought to justice. In this regard, we commend the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda for their irreplaceable role in combating impunity in fulfilment of their mandates and at the same time establishing standards for global justice in the interest of peace and security.

Albania supports the efforts of the Tribunals to complete their work at the earliest date and accomplish the completion strategy pursuant to Security Council resolutions 1503 (2003) and 1534 (2004) by adopting concrete measures to enhance the efficiency of the proceedings. The courts must have full support from the Security Council and the international community in order to maintain high dedication and efficiency in prosecuting and bringing to justice the remaining fugitives.

On the other hand, we also consider the referral of cases to competent national jurisdictions an essential part of the completion strategy. In this regard, we welcome the improvements of domestic judicial institutions in conducting fair trials for all lower and mid-level accused in the respective regions. We take note of the efforts made by Rwanda in order to meet all the benchmarks for fair trials.

Albania has signed an agreement with the ICTY and offered its prison facilities for the sentenced persons to serve their prison terms in Albania as a concrete measure of support for the ICTY.

Albania considers that the arrest of the remaining fugitives — Ratko Mladić and Goran Hadžić as well as Félicien Kabuga — should remain a top priority for the successful accomplishment of the Tribunals' work. We call on the States in the region, especially those where fugitives are suspected to be at large, to fully cooperate with and render all necessary support to the Tribunals. The arrest of the fugitives will mark the ending of a tragic period in the history of the Balkan region and the region concerned in Africa, and at the same time pave the way for long-term reconciliation. We owe this to the victims and their families, and we owe it to ourselves, as there can be no peace and prosperity without a resolute fulfilment of justice.

My delegation also wishes to echo the particular concern of President Robinson regarding compensation

of the victims. We fully subscribe to his concern and remarks, and believe that the matter needs to be properly addressed as an important part of making justice.

Mr. Kuzmin (Russian Federation) (*spoke in Russian*): First, I express my gratitude to the Presidents of the Tribunals for their reports.

The Tribunals set up by the Security Council more than 15 years ago, as temporary courts, undoubtedly have done considerable work in order to bring to justice those persons guilty of international crimes on the territories of the former Yugoslavia and Rwanda. The history of their creation shows that the Security Council considered their function in a broader context, as one of the measures designed to maintain international peace and security, and for post-conflict settlement in the regions. By its very nature, the international, ad hoc tribunal cannot and should not endlessly take the place of the existing courts and tribunals of individual countries.

The position of principle of the Russian Federation is that the Tribunals should keep within the time limit for a completion strategy. Both should be guided by the time frames laid down by the Security Council and do everything possible to ensure that their substantive work is concluded by the end of 2010.

Unfortunately, the language of both reports suggests that the Tribunals, for various reasons, offer discouraging prospects of their observing those time frames. Security Council resolutions 1877 (2009) and 1878 (2009) once again extended the functions of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), this time until 31 December 2010. We stress the exceptional nature of those measures, which were made necessary by the need to bring cases already under way to their logical conclusion.

We welcome the Tribunals' efforts to locate fugitives from justice. In this context, we note the success of the Rwanda Tribunal, which, together with INTERPOL and the law enforcement agencies of various States, has succeeded in arresting two suspects over the last few months. We share the concern of the international community that two suspects in the ICTY dossier still remain at large, as well as eleven suspects of the ICTR.

However, the real difficulties in finding and arresting fugitives should not be used to drag out the Tribunals' work for an indefinite period. Completion of their work is closely connected with the transfer of cases to national jurisdictions, which is the thrust of Security Council resolutions 1503 (2003) and 1534 (2004). Unfortunately, the Tribunals approach the matter with caution, the grounds for which are not always solid. We call on them to activate their mechanisms for bringing national courts into taking over outstanding cases.

In this context, we note the work done by the Tribunals to develop the potential to transfer to local courts their accumulated experience and carry out legal research which will make it possible to adapt international precedents to national criminal court procedures. We would also encourage the efforts of the Tribunals to accelerate the tempo of the judicial processes and to attempt to rationalize the work of courts for parallel consideration of a number of cases.

This year the General Assembly and the Fifth Committee will have to discuss and adopt draft resolutions on the budget for the Tribunals for the next two-year period. We believe that during a universal financial crisis the Tribunals' attention should be drawn to the need to stay within the indicated budgetary limits, and to take into account in forthcoming expenditure the need to preserve their heritage, particularly their archives, and transform themselves into mechanisms of their own residual competence.

Mr. Mahiga (United Republic of Tanzania): At the outset, I thank both Judge Charles Michael Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR) and Judge Patrick Lipton Robinson, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), for presenting their annual reports to the General Assembly. Tanzania appreciates their ability to lead the Tribunals and ensure that the purposes for which they were established are fully met.

Furthermore, we commend the Presidents' efforts in implementing the completion strategies for both Tribunals, and express our strong support for their important work in ending impunity in Africa and the world over. The ICTR and the ICTY have demonstrated their significant role in fighting impunity and promoting the rule of law. They have further shown that genocide, crimes against humanity, war

crimes and other crimes under international law cannot be tolerated, and that perpetrators of such atrocities must face retribution.

As the host State of the International Criminal Tribunal for Rwanda, Tanzania has continued to perform its inherent obligation in ensuring the smooth running of the Tribunal's activities. That support has taken the form of making logistical arrangements, issuing visas and permits, processing applicable tax exemptions and ensuring the security of both the premises of the court and its staff.

We extend our condolences over one of the judges who met his death in Tanzania. Investigations were properly carried out, and the results were shared with the United Nations and his home country.

Tanzania reaffirms its commitment to continuing to discharge its duties as the host State of the Tribunal until the completion of its work in the remaining few years.

Having thoroughly gone through the reports of the two courts, we have noted with appreciation the achievements so far in ensuring that the purposes of their establishment are fully met. Tanzania appreciates the difficulties of the two Tribunals, as reflected in the reports before us, and we are prepared to continue cooperating with the ICTR to overcome any inconvenience or difficulties that may persist.

As we are all aware, the smooth running of the court, and thus delivering justice to both the acquitted and the convicted, largely depends on the mutual cooperation and assistance of Member States. Tanzania has noted with concern the hurdles which the court faces with regard to the relocation of acquitted persons to third States and of convicted persons to serve their sentences. Since the court is one of our own creations, and since it is our desire and common goal to ensure that the ends of justice are met, we call on all Member States to cooperate with it by accepting convicted persons to serve their sentences in States' detention facilities, as part of international responsibility-sharing.

We note with concern that there remain at large in our region a number of fugitives who are still to face justice for crimes alleged to have been committed in Rwanda. We call on the Member States in our region on whose territory those fugitives have been located to cooperate with the court by assisting in their arrest and transfer as soon as possible to face justice at the ICTR in Arusha. We commend the efforts and initiatives, prompted by the Democratic Republic of the Congo and Uganda, to arrest and transfer the fugitives who were apprehended in those countries two weeks ago, and who are already in Arusha facing justice before the ICTR.

As the Tribunal is now implementing its completion strategy, the issue of maintaining its archives and the residual function are of the utmost importance. Tanzania is willing and ready to continue hosting the Tribunal's archives with the same dedication and commitment as we did throughout the operation of the court from its inception more than 10 years ago. We strongly believe that the infrastructure already in place makes Arusha an ideal location to keep the records of the court as an important historical learning institution for the benefit of future generations in the subregion and the African continent as a whole. Already the court archives have been made available to many universities in our region, and they are an integral part of capacity-building and the training of future generations of lawyers in our region.

Tanzania has been designated by the African Union as the seat of the African Court on Human and Peoples' Rights. The cases to be handled by that Court will benefit immeasurably from the precedents of cases and judgements handled and rendered by the ICTR in Arusha.

We are following with interest the deliberations of the Security Council's Informal Working Group on International Tribunals, chaired by Austria, with regard to the Tribunals' residual mechanisms. We trust that consideration will be given to preservation of the archives, and access to them, in order to support successful mechanisms, such as the International Criminal Court (ICC). The experience of the African Tribunal, preserved in the archives in Arusha, Tanzania, would offer ready-made facilities to support the ICC, should that be one of the recommendations of the Informal Working Group.

The President (*spoke in Arabic*): May I take it that the Assembly wishes to conclude its consideration of agenda items 73 and 74?

It was so decided.

The meeting rose at 12.10 p.m.